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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,383	07/30/2001	Stefaan Van Dyck	4532670/70200	9962
7590	09/22/2004		EXAMINER	
Kent A. Herink The Financial Center 666 Walnut Street, Suite 2500 Des Moines, IA 50309-3993			OH, TAYLOR V	
			ART UNIT	PAPER NUMBER
			1625	

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/918,383

Applicant(s)

DYCK, STEFAAN VAN

Examiner

Taylor Victor Oh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-9 and 11-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Final Rejection

The Status of Claims

Claims 1 , 3-9, and 11-15 are pending.

Claims 1 , 3-9, and 11-15 have been rejected.

Claims 2 and 10 have been canceled.

Claim Objections

The objection of claim 4 has been withdrawn due to the modification made in the amendment.

Claim Rejections - 35 USC 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The rejection of claims 6-10 under 35 USC 112, second paragraph, has been withdrawn due to the modification made in the amendment. However, with respect to claims 1 and 14, there is still an issue to be resolved.

Claims 1 and 14-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "substantially" is recited. However, according to the specification, there is no description as to what it is meant by the

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phrase "substantially absorbed by the carrier"; this is very unclear as to how much the liquid organic acid is absorbed by the carrier. Therefore, an appropriate correction is required.

Claim Rejections - 35 USC 103

1. Applicants' argument filed 6/25/04 have been fully considered but are persuasive.

Rejection of Claims 1, 3-9, and 11-15 under 35 U.S.C. 103(a) as being unpatentable over Moore (U.S. 5,019,148) in view of Mori et al (U.S. 5,935,635).

The rejection of Claims 1, 3-9, and 11-15 under 35 U.S.C. 103(a) as being unpatentable over Moore (U.S. 5,019,148) in view of Mori et al (U.S. 5,935,635) is maintained for the reasons of the record on 3/22/04.

Response to Argument

Applicants argue the following issues:

1. The important aspect of the current invention is to slow down the reaction when the base is added; the liquid organic acid is substantially absorbed by the inert carrier before the base is added to the vessel;
2. The first step of the current invention is commingling the acids and inert carrier wherein the acids are substantially absorbed by the inert

carrier and then the base is added, whereas the Moore process is to combine the acids and the bases and then an inert carrier may be added;

3. None of the prior art teach that the liquid organic acid is substantially absorbed by the inert carrier before the base is added to the vessel.

Applicants' arguments have been noted, but the arguments are not persuasive.

First, regarding the first, second, and third arguments, the Examiner has noted applicants' arguments. However, it has been held that merely reversing the order of steps in a multi-step process is not a patentable modification absent unexpected or unobvious results. Ex parte Rubbin, 128 U.S.P.Q. 440 (P.O.B.A. 1959). Cohn v. Comr Patents, 251 F. supp. 437, 148 U.S.P.Q. 486(D.C. 1966). The Moore process is directed to an energy saving process which produces homogeneous mineral granules of animal feed supplements by commingling acids such as acetic, propionic, citric acid (see col. 6, lines 36-39) and bases such as the oxides, hydroxides of the alkaline earth metals and hydroxides of alkali metals (see col. 6, lines 45-49) to form a mixture in an exothermic reaction (see col. 4, lines 8-10), during which water is evaporated from the salts formed.

The Moore process does teach that the acids and the bases are combined and then an inert carrier may be added. Furthermore, according to the Mori's process, it is possible to add an anti-caking agent before granulating (see col. 9, lines 42-55).

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However, applicants have not shown the unexpected result based on the side-by-side comparison data between the Moore prior art and the current invention. Until then, applicants' argument of unexpected results cannot take place the place of evidence in the record. In re DeBlauwe, 736 F. 2d 699, 705 222 U.S.P.Q. 191, 196 (Fed. Cir. 1984). Therefore, the prior art are still relevant to the claimed invention.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

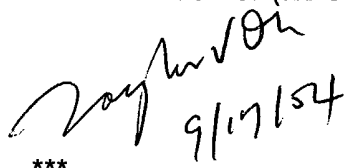
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

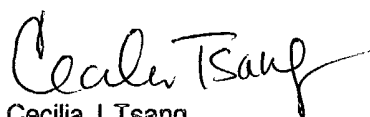
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Taylor Victor Oh whose telephone number is 571-272-0689. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


9/17/14


Cecilia J. Tsang
Supervisory Patent Examiner
Technology Center 1600